REMARKS

Independent claim 1 has been amended to more clearly define and distinguish the present invention. More particularly, the diamagnetic or nonmagnetic member is now claimed as being disposed for parallel movement between the fixed and the moveable linear arrays of magnets, and further the apparatus elements has been defined for adjusting braking force against the member parallel movement by parallel movement of the moveable linear array of permanent magnets.

Support for this amendment is found in the figures, particularly 15, 15a, and 16, 16a, as well as in the specification describing these figures.

Traverse of the Examiner's rejections will be made on the basis of the amended claims.

In that regard, claims 1-2 have been rejected by the Examiner under 35 USC 102(e) as being anticipated by U.S. Publication No. 2003/0005849 to Post. In this rejection, the Examiner states that Post discloses all the limitations of the instant claims and further notes that a restoring force provided by the arrays can be considered a resistive or braking force.

This levitating restoring force is considered by the Examiner to be a resistive braking force to braking motion imported by gravity in the vehicle.

This is clearly distinguished from the present invention as presently claimed in which the diamagnetic member is disposed for parallel movement between the fixed and moveable linear arrays of magnets and further the apparatus for adjusting the braking force against the member parallel movement includes parallel movement of the moveable linear array of permanent magnets.

Based upon the criteria of finding anticipation set forth in the response/amendment filed on April 25, 2005, the Applicants submit that the post reference does not teach each and every element of the claimed invention and accordingly a rejection of claims 1-2 under 35

USC 102(e) on the basis of the Post reference is not sustainable and respectfully requests the Examiner to withdraw this rejection.

Claims 1-2 have also been rejected under 35 USC 102(a) on the basis of WO 03/043865, the equivalent of U.S. 2004/0262103 to Rosner. In this rejection, the Examiner states that Rosner discloses all limitations of the instant claims. However, with regard to the amended claims, it is clear that Rosner does not teach any structure or apparatus for adjusting the braking force against the member parallel movement by parallel movement of the moveable linear array of permanent magnets.

Rather, as shown in Figure 1, the magnetic strip 18 is displaceable in relation to another magnetic strip 20 by a parallelogram crank mechanism. Thus, this structure does not meet the claimed apparatus and accordingly a rejection under 35 USC 102(e) of claims 1-2 on the basis of the Rosner reference is not sustainable. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

Claim 3 has been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Rosner in view of U.S. 5,628,690 to Spieldiener, et al.

In this rejection, the Examiner states that Rosner discloses all limitations, instant claim, with exception to the spring actuator and refers to Spieldiener, et al. for disclosing a similar device teaching the utilization of the spring.

In column 5, first paragraph of Spieldiener, et al., there is discussed a built-in spring system which activates a conventional brake power in addition to enigmatic power. No further reference is made to this apparatus. However, it certainly does not meet the limitation in accordance with the present claims of a spring attached to the moveable linear array of permanent magnets for enabling lateral movement of the moveable linear array of permanent magnets to be a function of velocity of the member between the magnet arrays. In view of this lack of teaching in both the Rosner and Spieldiener, et al. references, the Applicants submit that the Examiner has not made a prima facie case of obviousness on the basis of these references and accordingly respectfully requests the withdrawal of the rejection of claim 3 under 35 USC 103(a).

In view of the arguments hereinabove set forth and amendment to the claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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